

AMENDED IN SENATE APRIL 9, 2014

**SENATE BILL**

**No. 998**

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**Introduced by Senator Knight**

February 13, 2014

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*An act to add Article 8 (commencing with Section 12099.8) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, to amend Section 510 of, and to add Section 511.5 to, the Labor Code, to add Sections 21080.38 and 21168.6.8 to the Public Resources Code, to amend Sections 17059.2 and 23689 of, and to add Sections 17053.35, 17053.36, 23635, and 23636 to, the Revenue and Taxation Code, and to add Section 10215.2 to the Unemployment Insurance Code, relating to aerospace.*

LEGISLATIVE COUNSEL'S DIGEST

SB 998, as amended, Knight. California Aerospace Innovation Hub Act of 2014.

**Existing**

*(1) Existing law provides various incentives for industries such as the aerospace industry to locate and invest in this state, such as a program that allows local governments to establish a capital investment incentive program to pay a capital investment incentive amount to the proponents of a qualified manufacturing facility in the aerospace business, and a sales and use tax exemption for the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a person engaged in aerospace products and parts manufacturing for use primarily in manufacturing, processing, refining, fabricating, or recycling of property. Existing law also creates the California Innovation Hub Program within the Governor's Office of Business and Economic Development and requires*

*the office to designate innovation hubs and to oversee, coordinate, and provide assistance to each innovation hub.*

*The bill would require the Governor's Office of Business and Economic Development to design and implement Aerospace Innovation Hubs, as specified, based on existing geographically based clusters of facilities of aerospace manufacturers and related businesses.*

*(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.*

*The bill, for taxable years beginning on or after January 1, 2015, and before January 1, 2025, would allow a credit against these taxes to an aerospace manufacturer or related business operating within an Aerospace Innovation Hub equal 10% of the qualified cost, as defined, of qualified property, as defined, placed in service during the taxable year, as provided. This credit would be in lieu of a specified sales and use tax exemption.*

*The bill, for the same taxable years, would allow a credit against these taxes for each taxable year equal to 25% of the charges for electricity paid or incurred by an aerospace manufacturer or related business operating within an Aerospace Innovation Hub during the taxable year.*

*The Personal Income Tax Law and the Corporation Tax Law, for taxable years beginning before January 1, 2025, allow a credit against the taxes imposed by those laws for each taxable year in an amount as determined by the Governor's Office of Business and Economic Development, pursuant to a contractual agreement with the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors.*

*The bill would include among those factors whether the taxpayer is an aerospace manufacturer or related business operating within an Aerospace Innovation Hub.*

*(3) Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by  $\frac{2}{3}$  of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek. Under existing law, any person who violates the provisions regulating work hours is guilty of a misdemeanor.*

*The bill would allow an individual nonexempt employee of an aerospace manufacturer or related business operating within an*

*Aerospace Innovation Hub to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40-hour workweek, and would allow the employer to implement this schedule without the obligation to pay overtime compensation for those additional hours in a workday, except as specified. The bill would require the Division of Labor Standards Enforcement in the Department of Industrial Relations to enforce this provision and adopt regulations.*

*(4) Existing law specifies that moneys in the Employment Training Fund are to be expended only for particular purposes relating to employment training and related administrative costs. Existing law authorizes the Employment Training Panel to allocate money in the fund for particular purposes related to employment training.*

*The bill would allow the Employment Training Panel to expend moneys in the Employment Training Fund to reimburse an aerospace manufacturer or related business operating within an Aerospace Innovation Hub for its reasonable costs of workforce training upon appropriation by the Legislature.*

*(5) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.*

*CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.*

*The bill would require the lead agency to undertake specified steps in the preparation of the EIR for certain aerospace projects, which would be designated by the Governor. The bill would require a public agency, in certifying the EIR and in granting approvals for those designated aerospace projects, to concurrently prepare the record of proceeding and to certify the record of proceeding within 5 days of the filing of a specified notice. The bill would require the Judicial Council, on or before July 1, 2015, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the EIR and in granting*

*approval of those designated aerospace manufacturing projects that requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceeding. The bill would, for the calendar years from 2015 to 2020, inclusive, require the Governor to designate 4 aerospace projects each year meeting specified requirements for which the above provisions would apply.*

*The bill would exempt from the requirements of CEQA a project or an activity related to the retooling or alteration for manufacturing purposes of an existing aerospace manufacturing facility or aerospace-related facility in an Aerospace Innovation Hub within the facility's existing footprint.*

*Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*The bill would provide that no reimbursement is required by this act for a specified reason.*

~~This bill would state the intent of the Legislature to enact legislation to create the California Aerospace Innovation Hub Act of 2014. This bill would state the intent of the Legislature to enact legislation that would create geographically based aerospace hubs around existing aerospace manufacturing clusters, and that within the aerospace hubs aerospace manufacturers and related businesses would benefit from special tax preferences, streamlined regulations, and work schedule flexibility.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Article 8 (commencing with Section 12099.8) is
- 2     added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the
- 3     Government Code, to read:

Article 8. Aerospace Innovation Hubs

12099.8. For the purposes of this article, the following terms have the following meanings:

(a) “Aerospace Innovation Hub” means a geographic area that, based on a determination by the Governor’s Office of Business and Economic Development, contains a cluster of aerospace manufacturing facilities or related business facilities.

(b) “Aerospace manufacturer” means a person that is primarily engaged in those lines of business described in Code 3364 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(c) “Related business” means a person that is primarily engaged in those lines of business described in Codes 222512, 325211, 332710, 332812, 333299, 333514, 333517, 333611, 333612, 333613, 333618, 334419, 334511, 334513, 334515, 334519, 335311, 335314, 335991, and 335999 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

12099.81. The Governor’s Office of Business and Economic Development shall designate and implement Aerospace Innovation Hubs based on existing geographically based clusters of facilities of aerospace manufacturers and related businesses. The Governor’s Office of Business and Economic Development shall consider several factors when designating an area as an Aerospace Innovation Hub, including the location of facilities, the proximity of facilities to each other, the size of facilities, and the number of employees working in those facilities.

SEC. 2. Section 510 of the Labor Code is amended to read:

510. (a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular

1 rate of pay of an employee. Nothing in this section requires an  
2 employer to combine more than one rate of overtime compensation  
3 in order to calculate the amount to be paid to an employee for any  
4 hour of overtime work. The requirements of this section do not  
5 apply to the payment of overtime compensation to an employee  
6 working pursuant to any of the following:

7 (1) An alternative workweek schedule adopted pursuant to  
8 Section 511.

9 (2) *An employee-selected flexible work schedule adopted*  
10 *pursuant to Section 511.5.*

11 ~~(2)~~  
12 (3) An alternative workweek schedule adopted pursuant to a  
13 collective bargaining agreement pursuant to Section 514.

14 ~~(3)~~  
15 (4) An alternative workweek schedule to which this chapter is  
16 inapplicable pursuant to Section 554.

17 (b) Time spent commuting to and from the first place at which  
18 an employee's presence is required by the employer shall not be  
19 considered to be a part of a day's work, when the employee  
20 commutes in a vehicle that is owned, leased, or subsidized by the  
21 employer and is used for the purpose of ridesharing, as defined in  
22 Section 522 of the Vehicle Code.

23 (c) This section does not affect, change, or limit an employer's  
24 liability under the workers' compensation law.

25 *SEC. 3. Section 511.5 is added to the Labor Code, to read:*

26 *511.5. (a) Notwithstanding Section 511 or any other law or*  
27 *order of the Industrial Welfare Commission, an individual*  
28 *nonexempt employee of a qualified employer may work up to 10*  
29 *hours per workday without any obligation on the part of the*  
30 *employer to pay an overtime rate of compensation, except as*  
31 *provided in subdivision (b), if the employee requests this schedule*  
32 *in writing and the employer approves the request. This shall be*  
33 *referred to as an overtime exemption for an employee-selected*  
34 *flexible work schedule.*

35 *(b) If an employee-selected flexible work schedule is adopted*  
36 *pursuant to subdivision (a), the employer shall pay overtime at*  
37 *one and one-half times the employee's regular rate of pay for all*  
38 *hours worked over 40 hours in a workweek or over 10 hours in a*  
39 *workday, whichever is the greater number of hours. All work*  
40 *performed in excess of 12 hours per workday and in excess of eight*

1 *hours on a fifth, sixth, or seventh day in the workweek shall be*  
2 *paid at double the employee's regular rate of pay.*

3 *(c) The employer may inform its employees that it is willing to*  
4 *consider an employee request to work an employee-selected flexible*  
5 *work schedule, but shall not induce a request by promising an*  
6 *employment benefit or threatening an employment detriment.*

7 *(d) The employee or employer may discontinue the*  
8 *employee-selected flexible work schedule at any time by giving*  
9 *written notice to the other party. The request will be effective the*  
10 *first day of the next pay period or the fifth day after notice is given*  
11 *if there are fewer than five days before the start of the next pay*  
12 *period, unless otherwise agreed to by the employer and the*  
13 *employee.*

14 *(e) This section does not apply to any employee covered by a*  
15 *valid collective bargaining agreement or employed by the state,*  
16 *a city, county, city and county, district, municipality, or other*  
17 *public, quasi-public, or municipal corporation, or any political*  
18 *subdivision of this state.*

19 *(f) This section shall be liberally construed to accomplish its*  
20 *purposes.*

21 *(g) (1) The Division of Labor Standards Enforcement shall*  
22 *enforce this section and shall adopt or revise regulations in a*  
23 *manner necessary to conform and implement this section.*

24 *(2) This section shall prevail over any inconsistent provisions*  
25 *in any wage order of the Industrial Welfare Commission.*

26 *(h) (1) For the purposes of this section, "qualified employer"*  
27 *means any employer that is an aerospace manufacturer or related*  
28 *business operating within an Aerospace Innovation Hub.*

29 *(2) For purposes of this subdivision, "Aerospace Innovation*  
30 *Hub," "aerospace manufacturer," and "related business" have*  
31 *the same meanings as defined in subdivisions (a), (b), and (c),*  
32 *respectively, of Section 12099.8 of the Government Code.*

33 *SEC. 4. Section 21080.38 is added to the Public Resources*  
34 *Code, to read:*

35 *21080.38. (a) This division does not apply to a project or an*  
36 *activity related to the retooling or alteration for manufacturing*  
37 *purposes of an existing facility of an aerospace manufacturer or*  
38 *a related business in an Aerospace Innovation Hub within the*  
39 *facility's existing footprint.*

1     (b) For purposes of this division, “Aerospace Innovation Hub,”  
2     “aerospace manufacturer,” and “related business” have the same  
3     meanings as defined in subdivisions (a), (b), and (c), respectively,  
4     of Section 12099.8 of the Government Code.

5     SEC. 5. Section 21168.6.8 is added to the Public Resources  
6     Code, to read:

7     21168.6.8. (a) For the purposes of this section, the following  
8     terms have the following meanings:

9     (1) “Aerospace project” means either of the following:

10    (A) A project related to the construction of a new facility of an  
11    aerospace manufacturer or a related business.

12    (B) A project related to the expansion of an existing facility of  
13    an aerospace manufacturer or a related business outside of the  
14    facility’s existing footprint.

15    (2) “Designated aerospace project” means an aerospace project  
16    designated pursuant to subdivision (b).

17    (b) For each calendar year from 2015 to 2020, inclusive, the  
18    Governor shall designate four aerospace projects within Aerospace  
19    Innovation Hubs designated pursuant to Section 12099.81 of the  
20    Government Code. Each designated project shall have a capital  
21    investment of at least 75 million dollars (\$75,000,000).

22    (c) (1) On or before July 1, 2015, the Judicial Council shall  
23    adopt a rule of court to establish procedures applicable to actions  
24    or proceedings brought to attack, review, set aside, void, or annul  
25    the certification of the environmental impact report for a  
26    designated aerospace project or the granting of any project  
27    approvals that require the actions or proceedings, including any  
28    potential appeals therefrom, be resolved, to the extent feasible,  
29    within 270 days of certification of the record of proceedings  
30    pursuant to subdivision (e).

31    (2) Notwithstanding any other law, the procedures established  
32    pursuant to paragraph (1) shall apply to an action or proceeding  
33    brought to attack, review, set aside, void, or annul the certification  
34    of the environmental impact report for a designated aerospace  
35    project or the granting of any project approvals.

36    (d) (1) The draft and final environmental impact report for a  
37    designated aerospace project shall include a notice in not less  
38    than 12-point type stating the following:

39



1 THIS EIR IS SUBJECT TO SECTION 21168.6.8 OF THE PUBLIC  
2 RESOURCES CODE, WHICH PROVIDES, AMONG OTHER  
3 THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER  
4 CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE  
5 PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY  
6 JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF  
7 THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED  
8 IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH  
9 IN SECTION 21168.6.8 OF THE PUBLIC RESOURCES CODE.  
10 A COPY OF SECTION 21168.6.8 OF THE PUBLIC RESOURCES  
11 CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.  
12

13 (2) The draft environmental impact report and final  
14 environmental impact report shall contain, as an appendix, the  
15 full text of this section.

16 (3) Within 10 days after the release of the draft environmental  
17 impact report, the lead agency shall conduct an informational  
18 workshop to inform the public of the key analyses and conclusions  
19 of that report.

20 (4) Within 10 days before the close of the public comment  
21 period, the lead agency shall hold a public hearing to receive  
22 testimony on the draft environmental impact report. A transcript  
23 of the hearing shall be included as an appendix to the final  
24 environmental impact report.

25 (5) (A) Within five days following the close of the public  
26 comment period, a commenter on the draft environmental impact  
27 report may submit to the lead agency a written request for  
28 nonbinding mediation. The lead agency and the designated  
29 aerospace project applicant shall participate in nonbinding  
30 mediation with all commenters who submitted timely comments  
31 on the draft environmental impact report and who requested the  
32 mediation. Mediation conducted pursuant to this paragraph shall  
33 end no later than 35 days after the close of the public comment  
34 period.

35 (B) A request for mediation shall identify all areas of dispute  
36 raised in the comment submitted by the commenter that are to be  
37 mediated.

38 (C) The lead agency shall select one or more mediators who  
39 shall be retired judges or recognized experts with at least five

1 years experience in land use and environmental law or science,  
2 or mediation. The applicant shall bear the costs of mediation.

3 (D) A mediation session shall be conducted on each area of  
4 dispute with the parties requesting mediation on that area of  
5 dispute.

6 (E) The lead agency shall adopt, as a condition of approval,  
7 any measures agreed upon by the lead agency, the applicant, and  
8 any other commenter who requested mediation. A commenter who  
9 agrees to a measure pursuant to this subparagraph shall not raise  
10 the issue addressed by that measure as a basis for an action or  
11 proceeding challenging the lead agency's decision to certify the  
12 environmental impact report or to grant one or more initial project  
13 approvals.

14 (6) The lead agency need not consider written comments  
15 submitted after the close of the public comment period, unless  
16 those comments address any of the following:

17 (A) New issues raised in the response to comments by the lead  
18 agency.

19 (B) New information released by the public agency subsequent  
20 to the release of the draft environmental impact report, such as  
21 new information set forth or embodied in a staff report, proposed  
22 permit, proposed resolution, ordinance, or similar documents.

23 (C) Changes made to the project after the close of the public  
24 comment period.

25 (D) Proposed conditions for approval, mitigation measures, or  
26 proposed findings required by Section 21081 or a proposed  
27 reporting and monitoring program required by paragraph (1) of  
28 subdivision (a) of Section 21081.6, where the lead agency releases  
29 those documents subsequent to the release of the draft  
30 environmental impact report.

31 (E) New information that was not reasonably known and could  
32 not have been reasonably known during the public comment period.

33 (7) The lead agency shall file the notice required by subdivision  
34 (a) of Section 21152 within five days after the last initial project  
35 approval.

36 (e) (1) The lead agency shall prepare and certify the record of  
37 the proceedings in accordance with this subdivision and in  
38 accordance with Rule 3.1365 of the California Rules of Court. The  
39 applicant shall pay the lead agency for all costs of preparing and  
40 certifying the record of proceedings.

1     (2) No later than three business days following the date of the  
2     release of the draft environmental impact report, the lead agency  
3     shall make available to the public in a readily accessible electronic  
4     format the draft environmental impact report and all other  
5     documents submitted to or relied on by the lead agency in the  
6     preparation of the draft environmental impact report. A document  
7     prepared by the lead agency or submitted by the applicant after  
8     the date of the release of the draft environmental impact report  
9     that is a part of the record of the proceedings shall be made  
10    available to the public in a readily accessible electronic format  
11    within five business days after the document is prepared or received  
12    by the lead agency.

13    (3) Notwithstanding paragraph (2), documents submitted to or  
14    relied on by the lead agency that were not prepared specifically  
15    for the project and are copyright protected are not required to be  
16    made readily accessible in an electronic format. For those  
17    copyright protected documents, the lead agency shall make an  
18    index of these documents available in an electronic format no later  
19    than the date of the release of the draft environmental impact  
20    report, or within five business days if the document is received or  
21    relied on by the lead agency after the release of the draft  
22    environmental impact report. The index must specify the libraries  
23    or lead agency offices in which hardcopies of the copyrighted  
24    materials are available for public review.

25    (4) The lead agency shall encourage written comments on the  
26    project to be submitted in a readily accessible electronic format,  
27    and shall make any such comment available to the public in a  
28    readily accessible electronic format within five days of its receipt.

29    (5) Within seven business days after the receipt of any comment  
30    that is not in an electronic format, the lead agency shall convert  
31    that comment into a readily accessible electronic format and make  
32    it available to the public in that format.

33    (6) The lead agency shall indicate in the record of the  
34    proceedings comments received that were not considered by the  
35    lead agency pursuant to paragraph (6) of subdivision (d) and need  
36    not include the content of the comments as a part of the record.

37    (7) Within five days after the filing of the notice required by  
38    subdivision (a) of Section 21152, the lead agency shall certify the  
39    record of the proceedings for the approval or determination and  
40    shall provide an electronic copy of the record to a party that has

1 submitted a written request for a copy. The lead agency may charge  
2 and collect a reasonable fee from a party requesting a copy of the  
3 record for the electronic copy, which shall not exceed the  
4 reasonable cost of reproducing that copy.

5 (8) Within 10 days after being served with a complaint or a  
6 petition for a writ of mandate, the lead agency shall lodge a copy  
7 of the certified record of proceedings with the superior court.

8 (9) Any dispute over the content of the record of the proceedings  
9 shall be resolved by the superior court. Unless the superior court  
10 directs otherwise, a party disputing the content of the record shall  
11 file a motion to augment the record at the time it files its initial  
12 brief.

13 (10) The contents of the record of proceedings shall be as set  
14 forth in subdivision (e) of Section 21167.6.

15 SEC. 6. Section 17053.35 is added to the Revenue and Taxation  
16 Code, to read:

17 17053.35. (a) For taxable years beginning on or after January  
18 1, 2015, and before January 1, 2025, a qualified taxpayer shall  
19 be allowed a credit against the “net tax,” as defined in Section  
20 17039, an amount equal to 10 percent of the qualified cost of  
21 qualified property that is placed in service in this state during the  
22 taxable year.

23 (b) For purposes of this section, “qualified cost” means any  
24 cost that satisfies each of the following conditions:

25 (1) Is a cost paid or incurred by the qualified taxpayer for the  
26 construction, reconstruction, or acquisition of qualified property  
27 during the taxable year.

28 (2) Except as provided in paragraph (2) of subdivision (d) and  
29 subparagraph (B) of paragraph (3) of subdivision (d), is an amount  
30 upon which the qualified taxpayer has paid, directly or indirectly,  
31 as a separately stated contract amount or as determined from the  
32 records of the qualified taxpayer, sales tax reimbursement or use  
33 tax under Part 1 (commencing with Section 6001).

34 (3) Is an amount properly chargeable to the capital account of  
35 the qualified taxpayer.

36 (c) (1) (A) For purposes of this section, “qualified taxpayer”  
37 means any taxpayer that is an aerospace manufacturer or related  
38 business operating within an Aerospace Innovation Hub.

39 (B) For the purposes of this subdivision, “Aerospace Innovation  
40 Hub,” “aerospace manufacturer,” and “related business” have

1 *the same meanings as defined in subdivisions (a), (b), and (c),*  
2 *respectively, of Section 12099.8 of the Government Code.*

3 (2) *“Qualified taxpayer” does not include a taxpayer whose*  
4 *acquisition of tangible personal property is subject to the*  
5 *exemption provided by Section 6377.1.*

6 (3) *In the case of any pass thru entity, the determination of*  
7 *whether a taxpayer is a qualified taxpayer under this section shall*  
8 *be made at the entity level and any credit under this section or*  
9 *Section 23649 shall be allowed to the pass thru entity and passed*  
10 *through to the partners or shareholders in accordance with*  
11 *applicable provisions of Part 10 (commencing with Section 17001)*  
12 *or Part 11 (commencing with Section 23001). For purposes of this*  
13 *paragraph, the term “pass thru entity” means any partnership or*  
14 *“S” corporation.*

15 (4) *The Franchise Tax Board may prescribe regulations to carry*  
16 *out the purposes of this section, including any regulations*  
17 *necessary to prevent the avoidance of the effect of this section*  
18 *through splitups, shell corporations, partnerships, tiered ownership*  
19 *structures, sale-leaseback transactions, or otherwise.*

20 (d) *For purposes of this section, “qualified property” means*  
21 *property that is described as any of the following:*

22 (1) *Tangible personal property that is defined in Section 1245(a)*  
23 *of the Internal Revenue Code that is primarily used for any of the*  
24 *following:*

25 (A) *For the manufacturing, processing, refining, fabricating,*  
26 *or recycling of property, beginning at the point at which any raw*  
27 *materials are received by the qualified taxpayer and introduced*  
28 *into the process and ending at the point at which the*  
29 *manufacturing, processing, refining, fabricating, or recycling has*  
30 *altered tangible personal property to its completed form, including*  
31 *packaging, if required.*

32 (B) *In research and development.*

33 (C) *To maintain, repair, measure, or test any property described*  
34 *in this paragraph.*

35 (D) *For pollution control that meets or exceeds standards*  
36 *established by the state or by any local or regional governmental*  
37 *agency within the state.*

38 (E) *For recycling.*

1     (2) *The value of any capitalized labor costs that are directly*  
2 *allocable to the construction or modification of property described*  
3 *in paragraph (1).*

4     (3) (A) *Special purpose buildings and foundations that are*  
5 *constructed or modified for use by the qualified taxpayer primarily*  
6 *in a manufacturing, processing, refining, fabricating, or recycling*  
7 *process, or as a research or storage facility primarily used in*  
8 *connection with those processes.*

9     (B) *The value of any capitalized labor costs that are directly*  
10 *allocable to the construction or modification of special purpose*  
11 *buildings and foundations that are used primarily in the*  
12 *manufacturing, processing, refining, fabricating, or recycling*  
13 *process, or as a research or storage facility primarily used in*  
14 *connection with those processes.*

15     (C) (i) *For purposes of this paragraph, “special purpose*  
16 *building and foundation” means only a building and the foundation*  
17 *immediately underlying the building that is specifically designed*  
18 *and constructed or reconstructed for the installation, operation,*  
19 *and use of specific machinery and equipment with a special*  
20 *purpose, which machinery and equipment, after installation, will*  
21 *become affixed to or a fixture of the real property, and the*  
22 *construction or reconstruction of which is specifically designed*  
23 *and used exclusively for the specified purposes as set forth in*  
24 *subparagraph (A).*

25     (ii) *A building is specifically designed and constructed or*  
26 *modified for a qualified purpose if it is not economical to design*  
27 *and construct the building for the intended purpose and then use*  
28 *the structure for a different purpose.*

29     (iii) *For purposes of clause (i) and clause (vi), a building is*  
30 *used exclusively for a qualified purpose only if its use does not*  
31 *include a use for which it was not specifically designed and*  
32 *constructed or modified. Incidental use of a building for*  
33 *nonqualified purposes does not preclude the building from being*  
34 *a special purpose building. “Incidental use” means a use that is*  
35 *both related and subordinate to the qualified purpose. It will be*  
36 *conclusively presumed that a use is not subordinate if more than*  
37 *one-third of the total usable volume of the building is devoted to*  
38 *a use that is not a qualified purpose.*

39     (iv) *In the event an entire building does not qualify as a special*  
40 *purpose building, a taxpayer may establish that a portion of a*

1 *building, and the foundation immediately underlying the portion,*  
2 *qualifies for treatment as a special purpose building and*  
3 *foundation if the portion satisfies all of the definitional provisions*  
4 *in this subparagraph.*

5 *(v) To the extent that a building is not a special purpose building*  
6 *as defined above, but a portion of the building qualifies for*  
7 *treatment as a special purpose building, then all equipment that*  
8 *exclusively supports the qualified purpose occurring within that*  
9 *portion and that would qualify as Internal Revenue Code Section*  
10 *1245 property if it were not a fixture or affixed to the building*  
11 *shall be treated as a cost of the portion of the building that qualifies*  
12 *for treatment as a special purpose building.*

13 *(vi) Buildings and foundations that do not meet the definition*  
14 *of a special purpose building and foundation set forth above*  
15 *include, but are not limited to: buildings designed and constructed*  
16 *or reconstructed principally to function as a general purpose*  
17 *manufacturing, industrial, or commercial building; research*  
18 *facilities that are used primarily prior to or after, or prior to and*  
19 *after, the manufacturing process; or storage facilities that are*  
20 *used primarily prior to or after, or prior to and after, completion*  
21 *of the manufacturing process.*

22 *(4) Subject to the provisions in paragraph (2) of subdivision*  
23 *(b), qualified property also includes computer software that is*  
24 *primarily used for those purposes set forth in paragraph (1) of*  
25 *this subdivision.*

26 *(5) Qualified property does not include any of the following:*

27 *(A) Furniture.*

28 *(B) Facilities used for warehousing purposes after completion*  
29 *of the manufacturing process.*

30 *(C) Inventory.*

31 *(D) Equipment used in the extraction process.*

32 *(E) Equipment used to store finished products that have*  
33 *completed the manufacturing process.*

34 *(F) Any tangible personal property that is used in*  
35 *administration, general management, or marketing.*

36 *(e) For purposes of this section:*

37 *(1) "Fabricating" means to make, build, create, produce, or*  
38 *assemble components or property to work in a new or different*  
39 *manner.*

1 (2) “Manufacturing” means the activity of converting or  
2 conditioning property by changing the form, composition, quality,  
3 or character of the property for ultimate sale at retail or use in  
4 the manufacturing of a product to be ultimately sold at retail.  
5 Manufacturing includes any improvements to tangible personal  
6 property that result in a greater service life or greater functionality  
7 than that of the original property.

8 (3) “Primarily” means more than 50 percent.

9 (4) “Process” means the period beginning at the point at which  
10 any raw materials are received by the qualified taxpayer and  
11 introduced into that activity of the qualified taxpayer and ending  
12 at the point at which the manufacturing, processing, refining,  
13 fabricating, or recycling activity of the qualified taxpayer has  
14 altered tangible personal property to its completed form, including  
15 packaging, if required. Raw materials are considered to have been  
16 introduced into the process when the raw materials are stored on  
17 the same premises where the qualified taxpayer’s manufacturing,  
18 processing, refining, fabricating, or recycling activity is conducted.  
19 Raw materials that are stored on premises other than where the  
20 qualified taxpayer’s manufacturing, processing, refining,  
21 fabricating, or recycling activity is conducted, are not considered  
22 to have been introduced into the manufacturing, processing,  
23 refining, fabricating, or recycling process.

24 (5) “Processing” means the physical application of the materials  
25 and labor necessary to modify or change the characteristics of  
26 property.

27 (6) “Refining” means the process of converting a natural  
28 resource to an intermediate or finished product.

29 (7) “Research and development” means those activities that  
30 are described in Section 174 of the Internal Revenue Code or in  
31 any regulations thereunder.

32 (f) The credit allowed under subdivision (a) shall apply to  
33 qualified property that is acquired by or subject to lease by a  
34 qualified taxpayer, subject to the following special rules:

35 (1) A lessor of qualified property, irrespective of whether the  
36 lessor is a qualified taxpayer, is not allowed the credit provided  
37 under subdivision (a) with respect to any qualified property leased  
38 to another qualified taxpayer.

39 (2) (A) For purposes of determining the qualified cost paid or  
40 incurred by a lessee in any leasing transaction that is not treated



1 as a sale under Part 1 (commencing with Section 6001), the  
2 following rules apply:

3 (i) Except as provided by subparagraph (C) of this paragraph,  
4 paragraphs (1) and (3) of subdivision (b) do not apply.

5 (ii) Except as provided in subparagraph (B) and clause (iii),  
6 the “qualified cost” upon which the lessee shall compute the credit  
7 provided under this section shall be equal to the original cost to  
8 the lessor (within the meaning of Section 18031) of the qualified  
9 property that is the subject of the lease.

10 (iii) The requirement of paragraph (2) of subdivision (b) shall  
11 be treated as satisfied only if the lessor has made a timely election  
12 under either Section 6094.1 or subdivision (d) of Section 6244 and  
13 has paid sales tax reimbursement or use tax measured by the  
14 purchase price of the qualified property (within the meaning of  
15 paragraph (5) of subdivision (g) of Section 6006). For purposes  
16 of this subdivision, the amount of original cost to the lessor that  
17 may be taken into account under clause (ii) may not exceed the  
18 purchase price upon which sales tax reimbursement or use tax has  
19 been paid under the preceding sentence.

20 (B) For purposes of applying subparagraph (A) only, the  
21 following special rules shall apply:

22 (i) The original cost to the lessor of the qualified property shall  
23 be reduced by the amount of any original cost of that property that  
24 was taken into account by any predecessor lessee in computing  
25 the credit allowable under this section.

26 (ii) Clause (i) does not apply in any case where the predecessor  
27 lessee was required to recapture the credit provided under this  
28 section pursuant to subdivision (g).

29 (iii) For purposes of this section only, in any case where a  
30 successor lessor has acquired qualified property from a  
31 predecessor lessor in a transaction not treated as a sale under  
32 Part 1 (commencing with Section 6001), the original cost to the  
33 successor lessor of the qualified property shall be reduced by the  
34 amount of the original cost of the qualified property that was taken  
35 into account by any lessee of the predecessor lessor in computing  
36 the credit allowable under this section.

37 (C) In determining the original cost of any qualified property  
38 under this paragraph, only amounts paid or incurred by the lessor  
39 on or after January 1, 2015, shall be taken into account.

1     (D) Notwithstanding subparagraph (A), in the case of any  
2     leasing transaction for which the lessee is allowed the credit under  
3     this section and thereafter the lessee (or any party related to the  
4     lessee within the meaning of Section 267 or 318 of the Internal  
5     Revenue Code) acquires the qualified property from the lessor (or  
6     any successor lessor) within one year from the date the qualified  
7     property is first used by the lessee under the terms of the lease,  
8     the lessee's (or related party's) acquisition of the qualified property  
9     from the lessor (or successor lessor) shall be treated as a  
10    disposition by the lessee of the qualified property that was subject  
11    to the lease under subdivision (g).

12    (3) For purposes of determining the qualified cost paid or  
13    incurred by a lessee in any leasing transaction that is treated as  
14    a sale under Part 1 (commencing with Section 6001), the following  
15    rules apply:

16    (A) Paragraph (1) of subdivision (b) is applied by substituting  
17    the term "purchase" for the term "construction, reconstruction,  
18    or acquisition."

19    (B) Paragraph (3) of subdivision (b) applies.

20    (C) The requirement of paragraph (2) of subdivision (b) are  
21    treated as satisfied at the time that either the lessor or the qualified  
22    taxpayer pays sales tax reimbursement or use tax under Part 1  
23    (commencing with Section 6001).

24    (4) (A) In the case of any leasing transaction described in  
25    paragraph (2), the lessor shall provide a statement to the lessee  
26    specifying the amount of the lessor's original cost of the qualified  
27    property and the amount of that cost upon which a sales or use  
28    tax was paid within 45 days after the close of the lessee's taxable  
29    year in which the credit is allowable to the lessee under this  
30    section.

31    (B) The statement required under subparagraph (A) shall be  
32    made available to the Franchise Tax Board upon request.

33    (g) A credit is not allowed if the qualified property is removed  
34    from the state, is disposed of to an unrelated party, or is used for  
35    any purpose not qualifying for the credit provided in this section  
36    in the same taxable year in which the qualified property is first  
37    placed in service in this state. If any qualified property for which  
38    a credit is allowed pursuant to this section is thereafter removed  
39    from this state, disposed of to an unrelated party, or used for any  
40    purpose not qualifying for the credit provided in this section within

1 one year from the date the qualified property is first placed in  
2 service in this state, the amount of the credit allowed by this section  
3 for that qualified property shall be recaptured by adding that credit  
4 amount to the net tax of the qualified taxpayer for the taxable year  
5 in which the qualified property is disposed of, removed, or put to  
6 an ineligible use.

7 (h) In the case where the credit allowed by this section exceeds  
8 the “net tax,” the excess may be carried over to reduce the “net  
9 tax” in the following year, and the seven succeeding years if  
10 necessary, until the credit is exhausted.

11 (i) This credit shall be in lieu of any other credit or deduction  
12 that the qualified taxpayer may otherwise be allowed pursuant to  
13 this part.

14 SEC. 7. Section 17053.36 is added to the Revenue and Taxation  
15 Code, to read:

16 17053.36. (a) For taxable years beginning January 1, 2015,  
17 and before January 1, 2025, there shall be allowed as a credit  
18 against the “net tax,” as defined in Section 17039, an amount  
19 equal to 25 percent of the charges for electricity paid or incurred  
20 by a qualified taxpayer during the taxable year.

21 (b) (1) For purposes of this section, “qualified taxpayer” means  
22 any taxpayer that is an aerospace manufacturer or related business  
23 operating within an Aerospace Innovation Hub.

24 (2) For the purposes of this subdivision, “Aerospace Innovation  
25 Hub,” “aerospace manufacturer,” and “related business” have  
26 the same meanings as defined in subdivisions (a), (b), and (c),  
27 respectively, of Section 12099.8 of the Government Code.

28 (c) If the credit allowed by this section exceeds the “net tax,”  
29 the excess may be carried over to reduce the “net tax” in the  
30 following year, and the succeeding seven years if necessary, until  
31 the credit is exhausted.

32 (d) This credit shall be in lieu of any other credit or deduction  
33 that the qualified taxpayer may otherwise be allowed pursuant to  
34 this part.

35 SEC. 8. Section 17059.2 of the Revenue and Taxation Code is  
36 amended to read:

37 17059.2. (a) (1) For each taxable year beginning on and after  
38 January 1, 2014, and before January 1, 2025, there shall be allowed  
39 as a credit against the “net tax,” as defined in Section 17039, an

1 amount as determined by the committee pursuant to paragraph (2)  
2 and approved pursuant to Section 18410.2.

3 (2) The credit under this section shall be allocated by GO-Biz  
4 with respect to the 2013–14 fiscal year through and including the  
5 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
6 with respect to a fiscal year pursuant to this section shall be as set  
7 forth in a written agreement between GO-Biz and the taxpayer and  
8 shall be based on the following factors:

9 (A) The number of jobs the taxpayer will create or retain in this  
10 state.

11 (B) The compensation paid or proposed to be paid by the  
12 taxpayer to its employees, including wages and fringe benefits.

13 (C) The amount of investment in this state by the taxpayer.

14 (D) The extent of unemployment or poverty in the area  
15 according to the United States Census in which the taxpayer's  
16 project or business is proposed or located.

17 (E) The incentives available to the taxpayer in this state,  
18 including incentives from the state, local government, and other  
19 entities.

20 (F) The incentives available to the taxpayer in other states.

21 (G) The duration of the proposed project and the duration the  
22 taxpayer commits to remain in this state.

23 (H) The overall economic impact in this state of the taxpayer's  
24 project or business.

25 (I) The strategic importance of the taxpayer's project or business  
26 to the state, region, or locality.

27 (J) The opportunity for future growth and expansion in this state  
28 by the taxpayer's business.

29 (K) The extent to which the anticipated benefit to the state  
30 exceeds the projected benefit to the taxpayer from the tax credit.

31 (L) (i) *Whether the taxpayer is an aerospace manufacturer or*  
32 *related business operating within an Aerospace Innovation Hub.*

33 (ii) *For the purposes of this subparagraph, "Aerospace*  
34 *Innovation Hub," "aerospace manufacturer," and "related*  
35 *business" have the same meanings as defined in subdivisions (a),*  
36 *(b), and (c), respectively, of Section 12099.8 of the Government*  
37 *Code.*

38 (3) The written agreement entered into pursuant to paragraph  
39 (2) shall include:

1 (A) Terms and conditions that include the taxable year or years  
2 for which the credit allocated shall be allowed, a minimum  
3 compensation level, and a minimum job retention period.

4 (B) Provisions indicating whether the credit is to be allocated  
5 in full upon approval or in increments based on mutually agreed  
6 upon milestones when satisfactorily met by the taxpayer.

7 (C) Provisions that allow the committee to recapture the credit,  
8 in whole or in part, if the taxpayer fails to fulfill the terms and  
9 conditions of the written agreement.

10 (b) For purposes of this section:

11 (1) "Committee" means the California Competes Tax Credit  
12 Committee established pursuant to Section 18410.2.

13 (2) "GO-Biz" means the Governor's Office of Business and  
14 Economic Development.

15 (c) For purposes of this section, GO-Biz shall do the following:

16 (1) Give priority to a taxpayer whose project or business is  
17 located or proposed to be located in an area of high unemployment  
18 or poverty.

19 (2) Negotiate with a taxpayer the terms and conditions of  
20 proposed written agreements that provide the credit allowed  
21 pursuant to this section to a taxpayer.

22 (3) Provide the negotiated written agreement to the committee  
23 for its approval pursuant to Section 18410.2.

24 (4) Inform the Franchise Tax Board of the terms and conditions  
25 of the written agreement upon approval of the written agreement  
26 by the committee.

27 (5) Inform the Franchise Tax Board of any recapture, in whole  
28 or in part, of a previously allocated credit upon approval of the  
29 recapture by the committee.

30 (6) Post on its Internet Web site all of the following:

31 (A) The name of each taxpayer allocated a credit pursuant to  
32 this section.

33 (B) The estimated amount of the investment by each taxpayer.

34 (C) The estimated number of jobs created or retained.

35 (D) The amount of the credit allocated to the taxpayer.

36 (E) The amount of the credit recaptured from the taxpayer, if  
37 applicable.

38 (d) For purposes of this section, the Franchise Tax Board shall  
39 do all of the following:

1 (1) (A) Except as provided in subparagraph (B), review the  
2 books and records of all taxpayers allocated a credit pursuant to  
3 this section to ensure compliance with the terms and conditions  
4 of the written agreement between the taxpayer and GO-Biz.

5 (B) In the case of a taxpayer that is a “small business,” as  
6 defined in Section 17053.73, review the books and records of the  
7 taxpayer allocated a credit pursuant to this section to ensure  
8 compliance with the terms and conditions of the written agreement  
9 between the taxpayer and GO-Biz when, in the sole discretion of  
10 the Franchise Tax Board, a review of those books and records is  
11 appropriate or necessary in the best interests of the state.

12 (2) Notwithstanding Section 19542:

13 (A) Notify GO-Biz of a possible breach of the written agreement  
14 by a taxpayer and provide detailed information regarding the basis  
15 for that determination.

16 (B) Provide information to GO-Biz with respect to whether a  
17 taxpayer is a “small business,” as defined in Section 17053.73.

18 (e) In the case where the credit allowed under this section  
19 exceeds the “net tax,” as defined in Section 17039, for a taxable  
20 year, the excess credit may be carried over to reduce the “net tax”  
21 in the following taxable year, and succeeding five taxable years,  
22 if necessary, until the credit has been exhausted.

23 (f) Any recapture, in whole or in part, of a credit approved by  
24 the committee pursuant to Section 18410.2 shall be treated as a  
25 mathematical error appearing on the return. Any amount of tax  
26 resulting from that recapture shall be assessed by the Franchise  
27 Tax Board in the same manner as provided by Section 19051. The  
28 amount of tax resulting from the recapture shall be added to the  
29 tax otherwise due by the taxpayer for the taxable year in which  
30 the committee’s recapture determination occurred.

31 (g) (1) The aggregate amount of credit that may be allocated  
32 in any fiscal year pursuant to this section and Section 23689 shall  
33 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
34 less the amount specified in subparagraph (D):

35 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
36 year, one hundred fifty million dollars (\$150,000,000) for the  
37 2014–15 fiscal year, and two hundred million dollars  
38 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
39 inclusive.

1 (B) The unallocated credit amount, if any, from the preceding  
2 fiscal year.

3 (C) The amount of any previously allocated credits that have  
4 been recaptured.

5 (D) The amount estimated by the Director of Finance, in  
6 consultation with the Franchise Tax Board and the State Board of  
7 Equalization, to be necessary to limit the aggregation of the  
8 estimated amount of exemptions claimed pursuant to Section  
9 6377.1 and of the amounts estimated to be claimed pursuant to  
10 this section and Sections 17053.73, 23626, and 23689 to no more  
11 than seven hundred fifty million dollars (\$750,000,000) for either  
12 the current fiscal year or the next fiscal year.

13 (i) The Director of Finance shall notify the Chairperson of the  
14 Joint Legislative Budget Committee of the estimated annual  
15 allocation authorized by this paragraph. Any allocation pursuant  
16 to these provisions shall be made no sooner than 30 days after  
17 written notification has been provided to the Chairperson of the  
18 Joint Legislative Budget Committee and the chairpersons of the  
19 committees of each house of the Legislature that consider  
20 appropriation, or not sooner than whatever lesser time the  
21 Chairperson of the Joint Legislative Budget Committee, or his or  
22 her designee, may determine.

23 (ii) In no event shall the amount estimated in this subparagraph  
24 be less than zero dollars (\$0).

25 (2) Each fiscal year, 25 percent of the aggregate amount of the  
26 credit that may be allocated pursuant to this section and Section  
27 23689 shall be reserved for small business, as defined in Section  
28 17053.73 or 23626.

29 (3) Each fiscal year, no more than 20 percent of the aggregate  
30 amount of the credit that may be allocated pursuant to this section  
31 shall be allocated to any one taxpayer.

32 (h) GO-Biz may prescribe rules and regulations as necessary to  
33 carry out the purposes of this section. Any rule or regulation  
34 prescribed pursuant to this section may be by adoption of an  
35 emergency regulation in accordance with Chapter 3.5 (commencing  
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code.

38 (i) A written agreement between GO-Biz and a taxpayer with  
39 respect to the credit authorized by this section shall comply with  
40 existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

*SEC. 9. Section 23635 is added to the Revenue and Taxation Code, to read:*

*23635. (a) For taxable years beginning on or after January 1, 2015, and before January 1, 2025, a qualified taxpayer shall be allowed a credit against the "tax," as defined in Section 23036, an amount equal to 10 percent of the qualified cost of qualified property that is placed in service in this state during the taxable year.*

*(b) For purposes of this section, "qualified cost" means any cost that satisfies each of the following conditions:*

*(1) Is a cost paid or incurred by the qualified taxpayer for the construction, reconstruction, or acquisition of qualified property during the taxable year.*

*(2) Except as provided in paragraph (2) of subdivision (d) and subparagraph (B) of paragraph (3) of subdivision (d), is an amount upon which the qualified taxpayer has paid, directly or indirectly, as a separately stated contract amount or as determined from the records of the qualified taxpayer, sales tax reimbursement or use tax under Part 1 (commencing with Section 6001).*

*(3) Is an amount properly chargeable to the capital account of the qualified taxpayer.*

*(c) (1) (A) For purposes of this section, "qualified taxpayer" means any taxpayer that is an aerospace manufacturer or related business operating within an Aerospace Innovation Hub.*



1 (B) For the purposes of this subdivision, “Aerospace Innovation  
2 Hub,” “aerospace manufacturer,” and “related business” have  
3 the same meanings as defined in subdivisions (a), (b), and (c),  
4 respectively, of Section 12099.8 of the Government Code.

5 (2) “Qualified taxpayer” does not include a taxpayer whose  
6 acquisition of tangible personal property is subject to the  
7 exemption provided by Section 6377.1.

8 (3) In the case of any pass thru entity, the determination of  
9 whether a taxpayer is a qualified taxpayer under this section shall  
10 be made at the entity level and any credit under this section or  
11 Section 23649 shall be allowed to the pass thru entity and passed  
12 through to the partners or shareholders in accordance with  
13 applicable provisions of Part 10 (commencing with Section 17001)  
14 or Part 11 (commencing with Section 23001). For purposes of this  
15 paragraph, the term “pass thru entity” means any partnership or  
16 “S” corporation.

17 (4) The Franchise Tax Board may prescribe regulations to carry  
18 out the purposes of this section, including any regulations  
19 necessary to prevent the avoidance of the effect of this section  
20 through splitups, shell corporations, partnerships, tiered ownership  
21 structures, sale-leaseback transactions, or otherwise.

22 (d) For purposes of this section, “qualified property” means  
23 property that is described as any of the following:

24 (1) Tangible personal property that is defined in Section 1245(a)  
25 of the Internal Revenue Code that is primarily used for any of the  
26 following:

27 (A) For the manufacturing, processing, refining, fabricating,  
28 or recycling of property, beginning at the point at which any raw  
29 materials are received by the qualified taxpayer and introduced  
30 into the process and ending at the point at which the  
31 manufacturing, processing, refining, fabricating, or recycling has  
32 altered tangible personal property to its completed form, including  
33 packaging, if required.

34 (B) In research and development.

35 (C) To maintain, repair, measure, or test any property described  
36 in this paragraph.

37 (D) For pollution control that meets or exceeds standards  
38 established by the state or by any local or regional governmental  
39 agency within the state.

40 (E) For recycling.

1     (2) *The value of any capitalized labor costs that are directly*  
2 *allocable to the construction or modification of property described*  
3 *in paragraph (1).*

4     (3) (A) *Special purpose buildings and foundations that are*  
5 *constructed or modified for use by the qualified taxpayer primarily*  
6 *in a manufacturing, processing, refining, fabricating, or recycling*  
7 *process, or as a research or storage facility primarily used in*  
8 *connection with those processes.*

9     (B) *The value of any capitalized labor costs that are directly*  
10 *allocable to the construction or modification of special purpose*  
11 *buildings and foundations that are used primarily in the*  
12 *manufacturing, processing, refining, fabricating, or recycling*  
13 *process, or as a research or storage facility primarily used in*  
14 *connection with those processes.*

15     (C) (i) *For purposes of this paragraph, “special purpose*  
16 *building and foundation” means only a building and the foundation*  
17 *immediately underlying the building that is specifically designed*  
18 *and constructed or reconstructed for the installation, operation,*  
19 *and use of specific machinery and equipment with a special*  
20 *purpose, which machinery and equipment, after installation, will*  
21 *become affixed to or a fixture of the real property, and the*  
22 *construction or reconstruction of which is specifically designed*  
23 *and used exclusively for the specified purposes as set forth in*  
24 *subparagraph (A).*

25     (ii) *A building is specifically designed and constructed or*  
26 *modified for a qualified purpose if it is not economical to design*  
27 *and construct the building for the intended purpose and then use*  
28 *the structure for a different purpose.*

29     (iii) *For purposes of clause (i) and clause (vi), a building is*  
30 *used exclusively for a qualified purpose only if its use does not*  
31 *include a use for which it was not specifically designed and*  
32 *constructed or modified. Incidental use of a building for*  
33 *nonqualified purposes does not preclude the building from being*  
34 *a special purpose building. “Incidental use” means a use that is*  
35 *both related and subordinate to the qualified purpose. It will be*  
36 *conclusively presumed that a use is not subordinate if more than*  
37 *one-third of the total usable volume of the building is devoted to*  
38 *a use that is not a qualified purpose.*

39     (iv) *In the event an entire building does not qualify as a special*  
40 *purpose building, a taxpayer may establish that a portion of a*

1 *building, and the foundation immediately underlying the portion,*  
2 *qualifies for treatment as a special purpose building and*  
3 *foundation if the portion satisfies all of the definitional provisions*  
4 *in this subparagraph.*

5 *(v) To the extent that a building is not a special purpose building*  
6 *as defined above, but a portion of the building qualifies for*  
7 *treatment as a special purpose building, then all equipment that*  
8 *exclusively supports the qualified purpose occurring within that*  
9 *portion and that would qualify as Internal Revenue Code Section*  
10 *1245 property if it were not a fixture or affixed to the building*  
11 *shall be treated as a cost of the portion of the building that qualifies*  
12 *for treatment as a special purpose building.*

13 *(vi) Buildings and foundations that do not meet the definition*  
14 *of a special purpose building and foundation set forth above*  
15 *include, but are not limited to: buildings designed and constructed*  
16 *or reconstructed principally to function as a general purpose*  
17 *manufacturing, industrial, or commercial building; research*  
18 *facilities that are used primarily prior to or after, or prior to and*  
19 *after, the manufacturing process; or storage facilities that are*  
20 *used primarily prior to or after, or prior to and after, completion*  
21 *of the manufacturing process.*

22 *(4) Subject to the provisions in paragraph (2) of subdivision*  
23 *(b), qualified property also includes computer software that is*  
24 *primarily used for those purposes set forth in paragraph (1) of*  
25 *this subdivision.*

26 *(5) Qualified property does not include any of the following:*

27 *(A) Furniture.*

28 *(B) Facilities used for warehousing purposes after completion*  
29 *of the manufacturing process.*

30 *(C) Inventory.*

31 *(D) Equipment used in the extraction process.*

32 *(E) Equipment used to store finished products that have*  
33 *completed the manufacturing process.*

34 *(F) Any tangible personal property that is used in*  
35 *administration, general management, or marketing.*

36 *(e) For purposes of this section:*

37 *(1) "Fabricating" means to make, build, create, produce, or*  
38 *assemble components or property to work in a new or different*  
39 *manner.*

1 (2) “Manufacturing” means the activity of converting or  
2 conditioning property by changing the form, composition, quality,  
3 or character of the property for ultimate sale at retail or use in  
4 the manufacturing of a product to be ultimately sold at retail.  
5 Manufacturing includes any improvements to tangible personal  
6 property that result in a greater service life or greater functionality  
7 than that of the original property.

8 (3) “Primarily” means more than 50 percent.

9 (4) “Process” means the period beginning at the point at which  
10 any raw materials are received by the qualified taxpayer and  
11 introduced into that activity of the qualified taxpayer and ending  
12 at the point at which the manufacturing, processing, refining,  
13 fabricating, or recycling activity of the qualified taxpayer has  
14 altered tangible personal property to its completed form, including  
15 packaging, if required. Raw materials are considered to have been  
16 introduced into the process when the raw materials are stored on  
17 the same premises where the qualified taxpayer’s manufacturing,  
18 processing, refining, fabricating, or recycling activity is conducted.  
19 Raw materials that are stored on premises other than where the  
20 qualified taxpayer’s manufacturing, processing, refining,  
21 fabricating, or recycling activity is conducted, are not considered  
22 to have been introduced into the manufacturing, processing,  
23 refining, fabricating, or recycling process.

24 (5) “Processing” means the physical application of the materials  
25 and labor necessary to modify or change the characteristics of  
26 property.

27 (6) “Refining” means the process of converting a natural  
28 resource to an intermediate or finished product.

29 (7) “Research and development” means those activities that  
30 are described in Section 174 of the Internal Revenue Code or in  
31 any regulations thereunder.

32 (f) The credit allowed under subdivision (a) shall apply to  
33 qualified property that is acquired by or subject to lease by a  
34 qualified taxpayer, subject to the following special rules:

35 (1) A lessor of qualified property, irrespective of whether the  
36 lessor is a qualified taxpayer, is not allowed the credit provided  
37 under subdivision (a) with respect to any qualified property leased  
38 to another qualified taxpayer.

39 (2) (A) For purposes of determining the qualified cost paid or  
40 incurred by a lessee in any leasing transaction that is not treated

1 *as a sale under Part 1 (commencing with Section 6001), the*  
2 *following rules apply:*

3 *(i) Except as provided by subparagraph (C) of this paragraph,*  
4 *paragraphs (1) and (3) of subdivision (b) do not apply.*

5 *(ii) Except as provided in subparagraph (B) and clause (iii),*  
6 *the “qualified cost” upon which the lessee shall compute the credit*  
7 *provided under this section shall be equal to the original cost to*  
8 *the lessor (within the meaning of Section 18031) of the qualified*  
9 *property that is the subject of the lease.*

10 *(iii) The requirement of paragraph (2) of subdivision (b) shall*  
11 *be treated as satisfied only if the lessor has made a timely election*  
12 *under either Section 6094.1 or subdivision (d) of Section 6244 and*  
13 *has paid sales tax reimbursement or use tax measured by the*  
14 *purchase price of the qualified property (within the meaning of*  
15 *paragraph (5) of subdivision (g) of Section 6006). For purposes*  
16 *of this subdivision, the amount of original cost to the lessor that*  
17 *may be taken into account under clause (ii) may not exceed the*  
18 *purchase price upon which sales tax reimbursement or use tax has*  
19 *been paid under the preceding sentence.*

20 *(B) For purposes of applying subparagraph (A) only, the*  
21 *following special rules shall apply:*

22 *(i) The original cost to the lessor of the qualified property shall*  
23 *be reduced by the amount of any original cost of that property that*  
24 *was taken into account by any predecessor lessee in computing*  
25 *the credit allowable under this section.*

26 *(ii) Clause (i) does not apply in any case where the predecessor*  
27 *lessee was required to recapture the credit provided under this*  
28 *section pursuant to subdivision (g).*

29 *(iii) For purposes of this section only, in any case where a*  
30 *successor lessor has acquired qualified property from a*  
31 *predecessor lessor in a transaction not treated as a sale under*  
32 *Part 1 (commencing with Section 6001), the original cost to the*  
33 *successor lessor of the qualified property shall be reduced by the*  
34 *amount of the original cost of the qualified property that was taken*  
35 *into account by any lessee of the predecessor lessor in computing*  
36 *the credit allowable under this section.*

37 *(C) In determining the original cost of any qualified property*  
38 *under this paragraph, only amounts paid or incurred by the lessor*  
39 *on or after January 1, 2015, shall be taken into account.*

1 (D) Notwithstanding subparagraph (A), in the case of any  
2 leasing transaction for which the lessee is allowed the credit under  
3 this section and thereafter the lessee (or any party related to the  
4 lessee within the meaning of Section 267 or 318 of the Internal  
5 Revenue Code) acquires the qualified property from the lessor (or  
6 any successor lessor) within one year from the date the qualified  
7 property is first used by the lessee under the terms of the lease,  
8 the lessee's (or related party's) acquisition of the qualified property  
9 from the lessor (or successor lessor) shall be treated as a  
10 disposition by the lessee of the qualified property that was subject  
11 to the lease under subdivision (g).

12 (3) For purposes of determining the qualified cost paid or  
13 incurred by a lessee in any leasing transaction that is treated as  
14 a sale under Part 1 (commencing with Section 6001), the following  
15 rules apply:

16 (A) Paragraph (1) of subdivision (b) is applied by substituting  
17 the term "purchase" for the term "construction, reconstruction,  
18 or acquisition."

19 (B) Paragraph (3) of subdivision (b) applies.

20 (C) The requirement of paragraph (2) of subdivision (b) are  
21 treated as satisfied at the time that either the lessor or the qualified  
22 taxpayer pays sales tax reimbursement or use tax under Part 1  
23 (commencing with Section 6001).

24 (4) (A) In the case of any leasing transaction described in  
25 paragraph (2), the lessor shall provide a statement to the lessee  
26 specifying the amount of the lessor's original cost of the qualified  
27 property and the amount of that cost upon which a sales or use  
28 tax was paid within 45 days after the close of the lessee's taxable  
29 year in which the credit is allowable to the lessee under this  
30 section.

31 (B) The statement required under subparagraph (A) shall be  
32 made available to the Franchise Tax Board upon request.

33 (g) A credit is not allowed if the qualified property is removed  
34 from the state, is disposed of to an unrelated party, or is used for  
35 any purpose not qualifying for the credit provided in this section  
36 in the same taxable year in which the qualified property is first  
37 placed in service in this state. If any qualified property for which  
38 a credit is allowed pursuant to this section is thereafter removed  
39 from this state, disposed of to an unrelated party, or used for any  
40 purpose not qualifying for the credit provided in this section within

one year from the date the qualified property is first placed in service in this state, the amount of the credit allowed by this section for that qualified property shall be recaptured by adding that credit amount to the net tax of the qualified taxpayer for the taxable year in which the qualified property is disposed of, removed, or put to an ineligible use.

(h) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the seven succeeding years if necessary, until the credit is exhausted.

(i) This credit shall be in lieu of any other credit or deduction that the qualified taxpayer may otherwise be allowed pursuant to this part.

SEC. 10. Section 23636 is added to the Revenue and Taxation Code, to read:

23636. (a) For taxable years beginning January 1, 2015, and before January 1, 2025, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount equal to 25 percent of the charges for electricity paid or incurred by a qualified taxpayer during the taxable year.

(b) (1) For purposes of this section, “qualified taxpayer” means any taxpayer that is an aerospace manufacturer or related business operating within an Aerospace Innovation Hub.

(2) For the purposes of this subdivision, “Aerospace Innovation Hub,” “aerospace manufacturer,” and “related business” have the same meanings as defined in subdivisions (a), (b), and (c), respectively, of Section 12099.8 of the Government Code.

(c) If the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(d) This credit shall be in lieu of any other credit or deduction that the qualified taxpayer may otherwise be allowed pursuant to this part.

SEC. 11. Section 23689 of the Revenue and Taxation Code is amended to read:

23689. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount

1 as determined by the committee pursuant to paragraph (2) and  
2 approved pursuant to Section 18410.2.

3 (2) The credit under this section shall be allocated by GO-Biz  
4 with respect to the 2013–14 fiscal year through and including the  
5 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
6 with respect to a fiscal year pursuant to this section shall be as set  
7 forth in a written agreement between GO-Biz and the taxpayer and  
8 shall be based on the following factors:

9 (A) The number of jobs the taxpayer will create or retain in this  
10 state.

11 (B) The compensation paid or proposed to be paid by the  
12 taxpayer to its employees, including wages and fringe benefits.

13 (C) The amount of investment in this state by the taxpayer.

14 (D) The extent of unemployment or poverty in the area  
15 according to the United States Census in which the taxpayer's  
16 project or business is proposed or located.

17 (E) The incentives available to the taxpayer in the state,  
18 including incentives from the state, local government and other  
19 entities.

20 (F) The incentives available to the taxpayer in other states.

21 (G) The duration of the proposed project and the duration the  
22 taxpayer commits to remain in this state.

23 (H) The overall economic impact in this state of the taxpayer's  
24 project or business.

25 (I) The strategic importance of the taxpayer's project or business  
26 to the state, region, or locality.

27 (J) The opportunity for future growth and expansion in this state  
28 by the taxpayer's business.

29 (K) The extent to which the anticipated benefit to the state  
30 exceeds the projected benefit to the taxpayer from the tax credit.

31 (L) (i) *Whether the taxpayer is an aerospace manufacturer or*  
32 *related business operating within an Aerospace Innovation Hub.*

33 (ii) *For the purposes of this subparagraph, "Aerospace*  
34 *Innovation Hub," "aerospace manufacturer," and "related*  
35 *business" have the same meanings as defined in subdivisions (a),*  
36 *(b), and (c), respectively, of Section 12099.8 of the Government*  
37 *Code.*

38 (3) The written agreement entered into pursuant to paragraph  
39 (2) shall include:



1 (A) Terms and conditions that include the taxable year or years  
2 for which the credit allocated shall be allowed, a minimum  
3 compensation level, and a minimum job retention period.

4 (B) Provisions indicating whether the credit is to be allocated  
5 in full upon approval or in increments based on mutually agreed  
6 upon milestones when satisfactorily met by the taxpayer.

7 (C) Provisions that allow the committee to recapture the credit,  
8 in whole or in part, if the taxpayer fails to fulfill the terms and  
9 conditions of the written agreement.

10 (b) For purposes of this section:

11 (1) "Committee" means the California Competes Tax Credit  
12 Committee established pursuant to Section 18410.2.

13 (2) "GO-Biz" means the Governor's Office of Business and  
14 Economic Development.

15 (c) For purposes of this section, GO-Biz shall do the following:

16 (1) Give priority to a taxpayer whose project or business is  
17 located or proposed to be located in an area of high unemployment  
18 or poverty.

19 (2) Negotiate with a taxpayer the terms and conditions of  
20 proposed written agreements that provide the credit allowed  
21 pursuant to this section to a taxpayer.

22 (3) Provide the negotiated written agreement to the committee  
23 for its approval pursuant to Section 18410.2.

24 (4) Inform the Franchise Tax Board of the terms and conditions  
25 of the written agreement upon approval of the written agreement  
26 by the committee.

27 (5) Inform the Franchise Tax Board of any recapture, in whole  
28 or in part, of a previously allocated credit upon approval of the  
29 recapture by the committee.

30 (6) Post on its Internet Web site all of the following:

31 (A) The name of each taxpayer allocated a credit pursuant to  
32 this section.

33 (B) The estimated amount of the investment by each taxpayer.

34 (C) The estimated number of jobs created or retained.

35 (D) The amount of the credit allocated to the taxpayer.

36 (E) The amount of the credit recaptured from the taxpayer, if  
37 applicable.

38 (d) For purposes of this section, the Franchise Tax Board shall  
39 do all of the following:

1 (1) (A) Except as provided in subparagraph (B), review the  
2 books and records of all taxpayers allocated a credit pursuant to  
3 this section to ensure compliance with the terms and conditions  
4 of the written agreement between the taxpayer and GO-Biz.

5 (B) In the case of a taxpayer that is a “small business,” as  
6 defined in Section 23626, review the books and records of the  
7 taxpayer allocated a credit pursuant to this section to ensure  
8 compliance with the terms and conditions of the written agreement  
9 between the taxpayers and GO-Biz when, in the sole discretion of  
10 the Franchise Tax Board, a review of those books and records is  
11 appropriate or necessary in the best interests of the state.

12 (2) Notwithstanding Section 19542:

13 (A) Notify GO-Biz of a possible breach of the written agreement  
14 by a taxpayer and provide detailed information regarding the basis  
15 for that determination.

16 (B) Provide information to GO-Biz with respect to whether a  
17 taxpayer is a “small business,” as defined in Section 23626.

18 (e) In the case where the credit allowed under this section  
19 exceeds the “tax,” as defined in Section 23036, for a taxable year,  
20 the excess credit may be carried over to reduce the “tax” in the  
21 following taxable year, and succeeding five taxable years, if  
22 necessary, until the credit has been exhausted.

23 (f) Any recapture, in whole or in part, of a credit approved by  
24 the committee pursuant to Section 18410.2 shall be treated as a  
25 mathematical error appearing on the return. Any amount of tax  
26 resulting from that recapture shall be assessed by the Franchise  
27 Tax Board in the same manner as provided by Section 19051. The  
28 amount of tax resulting from the recapture shall be added to the  
29 tax otherwise due by the taxpayer for the taxable year in which  
30 the committee’s recapture determination occurred.

31 (g) (1) The aggregate amount of credit that may be allocated  
32 in any fiscal year pursuant to this section and Section 17059.2 shall  
33 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
34 less the amount specified in subparagraph (D):

35 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
36 year, one hundred fifty million dollars (\$150,000,000) for the  
37 2014–15 fiscal year, and two hundred million dollars  
38 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
39 inclusive.

1 (B) The unallocated credit amount, if any, from the preceding  
2 fiscal year.

3 (C) The amount of any previously allocated credits that have  
4 been recaptured.

5 (D) The amount estimated by the Director of Finance, in  
6 consultation with the Franchise Tax Board and the State Board of  
7 Equalization, to be necessary to limit the aggregation of the  
8 estimated amount of exemptions claimed pursuant to Section  
9 6377.1 and of the amounts estimated to be claimed pursuant to  
10 this section and Sections 17053.73, 17059.2, and 23626 to no more  
11 than seven hundred fifty million dollars (\$750,000,000) for either  
12 the current fiscal year or the next fiscal year.

13 (i) The Director of Finance shall notify the Chairperson of the  
14 Joint Legislative Budget Committee of the estimated annual  
15 allocation authorized by this paragraph. Any allocation pursuant  
16 to these provisions shall be made no sooner than 30 days after  
17 written notification has been provided to the Chairperson of the  
18 Joint Legislative Budget Committee and the chairpersons of the  
19 committees of each house of the Legislature that consider  
20 appropriation, or not sooner than whatever lesser time the  
21 Chairperson of the Joint Legislative Budget Committee, or his or  
22 her designee, may determine.

23 (ii) In no event shall the amount estimated in this subparagraph  
24 be less than zero dollars (\$0).

25 (2) Each fiscal year, 25 percent of the aggregate amount of the  
26 credit that may be allocated pursuant to this section and Section  
27 17059.2 shall be reserved for “small business,” as defined in  
28 Section 17053.73 or 23626.

29 (3) Each fiscal year, no more than 20 percent of the aggregate  
30 amount of the credit that shall be allocated pursuant to this section  
31 may be allocated to any one taxpayer.

32 (h) GO-Biz may prescribe rules and regulations as necessary to  
33 carry out the purposes of this section. Any rule or regulation  
34 prescribed pursuant to this section may be by adoption of an  
35 emergency regulation in accordance with Chapter 3.5 (commencing  
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code.

38 (i) (1) A written agreement between GO-Biz and a taxpayer  
39 with respect to the credit authorized by this section shall not  
40 restrict, broaden, or otherwise alter the ability of the taxpayer to

1 assign that credit or any portion thereof in accordance with Section  
2 23663.

3 (2) A written agreement between GO-Biz and a taxpayer with  
4 respect to the credit authorized by this section must comply with  
5 existing law on the date the agreement is executed.

6 (j) (1) Upon the effective date of this section, the Department  
7 of Finance shall estimate the total dollar amount of credits that  
8 will be claimed under this section with respect to each fiscal year  
9 from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

10 (2) The Franchise Tax Board shall annually provide to the Joint  
11 Legislative Budget Committee, by no later than March 1, a report  
12 of the total dollar amount of the credits claimed under this section  
13 with respect to the relevant fiscal year. The report shall compare  
14 the total dollar amount of credits claimed under this section with  
15 respect to that fiscal year with the department’s estimate with  
16 respect to that same fiscal year. If the total dollar amount of credits  
17 claimed for the fiscal year is less than the estimate for that fiscal  
18 year, the report shall identify options for increasing annual claims  
19 of the credit so as to meet estimated amounts.

20 (k) This section is repealed on December 1, 2025.

21 *SEC. 12. Section 10215.2 is added to the Unemployment*  
22 *Insurance Code, to read:*

23 *10215.2. (a) Upon appropriation by the Legislature, the panel*  
24 *shall reimburse an employer that is an aerospace manufacturer*  
25 *or related business operating within an Aerospace Innovation Hub*  
26 *for its reasonable costs of workforce training.*

27 *(b) The aerospace manufacturer or related business shall apply*  
28 *for reimbursement in such form and providing such information*  
29 *as may be required by the panel.*

30 *(c) For the purposes of this section, “Aerospace Innovation*  
31 *Hub,” “aerospace manufacturer,” and “related business” have*  
32 *the same meanings as defined in subdivisions (a), (b), and (c),*  
33 *respectively, of Section 12099.8 of the Government Code.*

34 *SEC. 13. No reimbursement is required by this act pursuant*  
35 *to Section 6 of Article XIII B of the California Constitution because*  
36 *a local agency or school district has the authority to levy service*  
37 *charges, fees, or assessments sufficient to pay for the program or*  
38 *level of service mandated by this act, within the meaning of Section*  
39 *17556 of the Government Code.*

1 SECTION 1. It is the intent of the Legislature to enact legislation  
2 to create the California Aerospace Innovation Hub Act of 2014 to  
3 improve the ability of the state to retain and attract aerospace  
4 businesses and the high-wage, middle-class jobs that these  
5 businesses provide. It is the intent of the Legislature to enact  
6 legislation that would create geographically based aerospace hubs  
7 around existing aerospace manufacturing clusters, and that within  
8 the aerospace hubs aerospace manufacturers and related businesses  
9 would benefit from special tax preferences, streamlined regulations,  
10 and work schedule flexibility.

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